

OP
08CR 100UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKDocument # 21UNITED STATES

-v-

JOSE RIVERAUSCA NO. 08-2243 CRSDNY NO. 08 Cr 100
JUDGE: Rakoff
DATE: 5/29/08

INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME) Ellen Smith
 FIRM UNITED STATES ATTORNEY
 ADDRESS ONE ST ANDREW'S PLAZA
 NY NY 10007
 PHONE NO. 212-637-2200

DISTRICT COURT DOCKET ENTRIES -----

DOCUMENTS

DOC#

Clerk's Certificate

See Attached List of Numbered Documents

Only Circled Documents Included

~~ALL OTHERS ARE DOCKETED ELECTRONICALLY~~ Original Record Supplemental RecordThe record in the above entitled case was indexed to the U.S.C.A.
for the Second Circuit on the 29 Day of MAY, 2008.

**United States District Court for
the Southern District of New York**

UNITED STATES

Date: 5/29/08

U.S.C.A. # 08-2243-CR

U.S.D.C. # 08(2/07)

D.C. JUDGE: RAKOFF

JOSE RIVERA

Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 20, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

<u>Date Filed</u>	<u>Document Description</u>
3/31/08	Memorandum
4/3/08	Reply to Response
4/14/08	Memorandum Order

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York,
this 29 Day of MAY In this year of our Lord, Two Thousand and Eight, and the Independence of
the United States this 232nd year.

J. Michael McMahon, Clerk

By 
Deputy Clerk

ECF, INTAPP, PRIOR

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CRIMINAL DOCKET FOR CASE #: 1:08-cr-00100-JSR-1
Internal Use Only

Case title: USA v. Rivera
Magistrate judge case number: 1:08-mj-00129-UA

Date Filed: 02/08/2008

Date Filed	#	Docket Text
01/18/2008	1	COMPLAINT as to Jose Rivera (1) in violation of 18 U.S.C. 922(g)(1). (Signed by Judge Magistrate Judge Andrew J. Peck) (gq) [1:08-mj-00129-UA] (Entered: 01/28/2008)
01/23/2008	2	AFFIRMATION of AUSA Howard S. Master in Support by USA for the issuing of a habeas corpus ad prosequendum, as to Jose Rivera. (gq) [1:08-mj-00129-UA] (Entered: 01/28/2008)
01/25/2008	3	Arrest of Jose Rivera. (gq) [1:08-mj-00129-UA] (Entered: 01/28/2008)
01/25/2008	4	CJA 23 Financial Affidavit by Jose Rivera. OK. (Signed by Judge Magistrate Judge Gabriel W. Gorenstein) (gq) [1:08-mj-00129-UA] (Entered: 01/28/2008)
01/25/2008	5	ORDER APPOINTING FEDERAL PUBLIC DEFENDER as to Jose Rivera. David E. Patton for Jose Rivera appointed. (Signed by Magistrate Judge Gabriel W. Gorenstein on 1/25/2008)(gq) [1:08-mj-00129-UA] (Entered: 01/28/2008)
01/25/2008	6	NOTICE OF ATTORNEY APPEARANCE: David E. Patton appearing for Jose Rivera. (gq) [1:08-mj-00129-UA] (Entered: 01/28/2008)
01/25/2008		Minute Entry for proceedings held before Magistrate Judge Gabriel W. Gorenstein:Initial Appearance as to Jose Rivera held on 1/25/2008. Deft appears with Federal Defender atty David Patton. AUSA Howard S. Master present for the gov't. Spanish interpreter present. Detention. See Detention Order.(Preliminary Examination set for 2/8/2008 at 10:00 AM before Judge Unassigned.) (gq) [1:08-mj-00129-UA] (Entered: 01/28/2008)
01/25/2008	7	ORDER OF DETENTION as to Jose Rivera. (Signed by Magistrate Judge Gabriel W. Gorenstein on 1/25/2008)(gq) [1:08-mj-00129-UA] (Entered: 01/28/2008)
01/25/2008	8	ORDER FOR MEDICAL ATTENTION as to Jose Rivera. (Signed by Magistrate Judge Gabriel W. Gorenstein on 1/25/2008)(gq) [1:08-mj-00129-UA] (Entered: 01/28/2008)
02/08/2008	9	INDICTMENT FILED as to Jose Rivera (1) count(s) 1. (jm) (Entered: 02/11/2008)
02/08/2008		Case Designated ECF as to Jose Rivera. (jm) (Entered: 02/11/2008)
02/14/2008		Minute Entry for proceedings held before Judge Jed S. Rakoff:Arraignment as to Jose Rivera (1) Count 1 held on 2/14/2008. Deft present with atty David Patton, AUSA Howard Master and Court reporter Sonia Huggins. Deft entered a plea of not guilty. Discovery is to be completed by February 22nd. Motion(s), if any, to be filed by March 10. The Court scheduled another pretrial conference for March 12 at 12:30pm. Time until March 12 is excluded in the interest of justice pursuant to 18 USC 3161. The deft continued detained. (jw) (Entered: 02/19/2008)
02/14/2008		Minute Entry for proceedings held before Judge Jed S. Rakoff: Plea entered by Jose Rivera (1) Count 1 Not Guilty. (jw) (Entered: 02/19/2008)
02/14/2008		Minute Entry for proceedings held before Judge Jed S. Rakoff:Pretrial Conference as to Jose Rivera held on 2/14/2008 as to Jose Rivera(Discovery due by 2/22/2008 Motions due by 3/10/2008., Pretrial Conference set for 3/12/2008 at 12:30 PM before Judge Jed S. Rakoff.) (jw) (Entered: 02/19/2008)
03/10/2008	10	FILING ERROR - DEFICIENT DOCKET ENTRY - FIRST MOTION to Suppress. Document filed by Jose Rivera. (Attachments: # 1 Exhibit Rivera Declaration, # 2 Exhibit Complaint)(Patton, David) Modified on 3/11/2008 (jar). (Entered: 03/10/2008)
03/11/2008		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DEFICIENT DOCKET ENTRY ERROR. Note to Attorney David Patton as to Jose Rivera: to RE-FILE Document 10 FIRST MOTION to Suppress. ERROR(S): (1) Supporting documents must be filed individually. Event code for Declaration in Support found under Replies, Oppositions, Supporting Documents. (2) Signature missing from Motion; sign then re-file. (jar) (Entered: 03/11/2008)
03/12/2008		Minute Entry for proceedings held before Judge Jed S. Rakoff: Pretrial Conference as to Jose Rivera held on 3/12/2008. Deft present w/atty David Patton, AUSA Howard Master and Court Reporter Joanne Mancari. The deft filed a motion to suppress evidence. The Court will hold a suppression hearing. The Court instructed counsel to confer amongst themselves to work out a date when all the witnesses will be available and then contact the Court to schedule

	a date and time for the hearing. Time until 3/24/08 is excluded in the interest of justice pursuant to 18 U.S.C. 3161. The deft continued detained. (bw) (Entered: 03/19/2008)
03/12/2008	ORAL ORDER as to Jose Rivera. Time excluded from 3/12/08 until 3/24/08. (bw) (Entered: 03/19/2008)
03/28/2008	11 TRANSCRIPT of Proceedings as to Jose Rivera held on 3/26/2008 before Judge Jed S. Rakoff. (ama) (Entered: 03/28/2008)
03/31/2008	12 MEMORANDUM in Opposition by USA as to Jose Rivera re <u>10 FIRST MOTION to Suppress..</u> (Attachments: # <u>1</u> Appendix 1)(Master, Howard) (Entered: 03/31/2008)
04/03/2008	13 REPLY TO RESPONSE to Motion by Jose Rivera re <u>10 FIRST MOTION to Suppress..</u> (Patton, David) (Entered: 04/03/2008)
04/07/2008	14 ORDER as to Jose Rivera. Dft moves to suppress physical evidence and statements. The motion is granted. An opinion explaining the reasons for this determination will issue in due course. Counsel for both parties are directed to jointly call the Court on Wednesday at 12:00 p.m. to discuss how the case will proceed. SO ORDERED. (Signed by Judge Jed S. Rakoff on 4/7/08)(ja) (Entered: 04/08/2008)
04/11/2008	Minute Entry for proceedings held before Judge Jed S. Rakoff. Bail Hearing as to Jose Rivera held on 4/11/2008. Defendant present with attorney David Patton, AUSA Howard Master and Court reporter Michelle Bulkley. The Court instructed the parties to submit further documents in reference to the bail application by Monday, April 14. The Court will make a ruling on the bail application on April 14th. The deft continued detained. (jw) (Entered: 04/14/2008)
04/14/2008	15 MEMORANDUM as to Jose Rivera. By Order dated 4/7/08, the Court granted deft's motion to suppress physical evidence and statements. This Memorandum states the reasons for that ruling....[See Memorandum]... Accordingly, the Court, by Order dated 4/7/08, granted the motion to suppress. (Signed by Judge Jed S. Rakoff on 4/14/08)(bw) (Entered: 04/15/2008)
04/14/2008	16 MEMORANDUM ORDER as to Jose Rivera. Defendant Jose Rivera, presently detained, now seeks to be released....[See Order]... Accordingly, the defendant is hereby ordered released on the following conditions: (1) The defendant shall execute a \$50,000 bond, to be co-signed by the mother of defendant's children. (2) The defendant shall not be permitted to travel outside of the Southern District of New York. (3) The defendant shall be subject to strict pretrial supervision. Counsel for both sides should take all necessary steps to expedite compliance with this Order. So Ordered. (Signed by Judge Jed S. Rakoff on 4/14/08)(bw) (Entered: 04/15/2008)
04/15/2008	17 TRANSCRIPT of Proceedings as to Jose Rivera held on 3/12/08 before Judge Jed S. Rakoff. (ama) (Entered: 04/15/2008)
04/15/2008	18 ADVICE OF PENALTIES AND SANCTIONS as to Jose Rivera. (jw) (Entered: 04/17/2008)
04/15/2008	19 PRB Bond Entered as to Jose Rivera in amount of \$ 50,000 to be cosigned by the mother of defendant's shall not be permitted to travel outside of the Southern District of New York; the defendant shall be subject to strict pretrial supervision. (jw) (Entered: 04/17/2008)
05/05/2008	20 NOTICE OF APPEAL by USA as to Jose Rivera from <u>14</u> Order. (tp) (Entered: 05/06/2008)
05/05/2008	Appeal Remark as to Jose Rivera re: <u>20</u> Notice of Appeal. NO FEE. AUSA.(tp) (Entered: 05/06/2008)
05/06/2008	Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Jose Rivera to US Court of Appeals re: <u>20</u> Notice of Appeal. (tp) (Entered: 05/06/2008)
05/13/2008	USCA SCHEDULING ORDER as to Jose Rivera related to <u>20</u> Notice of Appeal - Interlocutory filed by USA, USCA Case Number 08-2243-cr. Catherine O'Hagan Wolfe, Clerk USCA. Certified: 5/9/08. Appeal Record due by 5/29/2008. (tp) (Entered: 05/13/2008)
05/13/2008	USCA Case Number 08-2243-cr from the USCA 2nd Circuit as to Jose Rivera, assigned to <u>20</u> Notice of Appeal filed by USA. (tp) (Entered: 05/13/2008)